

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
Endler, et al.)	
Serial No.: 10/821,142)	
Filed: April 7, 2004)	Examiner: James M. Hannett
For: DIGITAL CAMERA WITH A)	Art Unit: 2622
SPHERICAL DISPLAY)	
<i>(amended title)</i>)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO SECOND NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF**

Sir:

In response to the Notification of December 14, 2007, please note the following remarks:

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

This is filed in response to the Notice of Non-Compliant Brief, mailed December 14, 2007. In this December 14 notice, Applicants' Amended Appeal Brief was identified as defective on the grounds that the brief does not present an argument under a separate heading for each ground of rejection on appeal.

This is the second Notice of Non-Compliant Brief that has issued in this matter. On October 29, 2007 a first Notice of Non-Compliant Brief was issued. Applicants timely responded to this first notice. The alleged deficiency as set forth in the second, December 14 notice was never raised as a problem in the first notice.

On January 2, 2008, a phone conference was held between the undersigned, counsel for Applicants, and Examiner Darlene Brown. Applicants called the Examiner in order to obtain clarification as to the nature of the objection in the second notice. The Examiner stated that the objection pertained to the statement of the issue on page four (4) of the Amended Appeal Brief. As written this statement of the issue was as follows:

“Issue 1: claims 1 - 5, 7 - 12, 13, 15 - 18, and 24 are patentable under 35 U.S.C. §102 over Storm.”

The Examiner stated that the above statement was wrong, and that instead it should read as follows:

“Issue 1: claims 1 - 5, 7 - 12, 13, 15 - 18, and 24 are patentable under 35 U.S.C. §102(e) over Storm.”

In other words, the Examiner stated that “35 U.S.C. §102” should instead be “35 U.S.C. §102(e).” Applicants thank the Examiner for taking the time to explain in more detail the nature of the objection.

Applicants respectfully disagree with this objection. As written, the headings in the “Arguments” section of the Amended Appeal Brief fully comply with 37 CFR 41.37(c)(1)(vii). Whether the heading recites “35 U.S.C. §102” as opposed to “35 U.S.C. §102(e)” is not believed to be a material difference for purposes of the heading. Nevertheless in order to promptly advance the appeal of this application, Applicants are

filing a Second Amended Appeal Brief wherein "35 U.S.C. §102" has been changed
"35 U.S.C. §102(c)."

CONCLUSION

For all the reasons advanced above, Applicants submit that the Second Amended
Appeal Brief fully complies with the applicable regulations and that the December 14, 2007
Notification should be withdrawn.

Respectfully submitted,

/Gary D. Mann/
Gary D. Mann
Reg. No. 34,867

Dated: January 14, 2008

FITCH EVEN TABIN & FLANNERY
120 S. LaSalle St., Suite 1600
Chicago, IL 60603

(818) 715-7025
(818) 715-7033 (fax)

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I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office
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Date of Transmission: January 14, 2008

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